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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|-----------------|-------------|----------------------|-------------------------|------------------|
| 09/833,047      | 04/11/2001  | Seth D. Rose         | AP31409-B - 072448.0318 | 2382             |

7590 08/30/2004  
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685 Third Avenue  
New York, NY 10117-4024

EXAMINER

WEBMAN, EDWARD J

| ART UNIT | PAPER NUMBER |
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1617

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
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EXAMINER

ART UNIT

PAPER NUMBER

6/6/04

DATE MAILED:

This is a communication from the examiner in charge of your application.  
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## OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 5/20/04☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 1, 3-18, 16 is/are pending in the application.  
Of the above, claim(s) 4-12 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 14 is/are rejected.
- ☒ Claim(s) 3, 16 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Claims 1, 14 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the compounds of claims 3 and 16 and withdrawn claims 4 and 8, does not reasonably provide enablement for any compound comprising a characteristic use agent and a crotonyl thiol ester. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Applicants disclose how to make linear esters and diesters wherein the alcohol is the characteristic use agent. However, applicants do not disclose how to make a compound wherein the alcohol is other than the characteristic use agent.

For example, applicants do not disclose how to make a compound characteristic use agent attaches to the terminal crotonyl wherein or sorbyl methyl group and the alcohol of the ester, is say, a methyl group. Nor do applicants teach a cyclic compound wherein X is an alcohol which is also attached to the terminal crotonyl or sorbyl methyl group.

Claims 1, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear as to how and where the characteristic use agent is bound to the crotonyl or sorbyl ester.

Claims 1, 14 are rejected.

Claims 1, 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (571) 272-0633. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Webman/LR  
August 9, 2004

  
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PRIMARY EXAMINER  
GROUP 1500